

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

WP(C).No. 748 of 2007(L)

PETITIONERS:

1. P.C. KUNHIRAMAN, S/O. CHAMY,
AGED 44 YEARS, PANIKKARUKALAM, KOTTAPPURAM P.O.,
SREEKRISHNAPURAM, PALAKKAD DISTRICT.
2. SUMATHI, W/O. LATE AYYAPPAN,
AGED 28 YEARS, PANIKKARUKALAM, KOTTAPURAM P.O.,
SREEKRISHNAPURAM, PALAKKAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, TRIVANDRUM.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
SHORNUR, PALAKKAD DISTRICT.

BY GOVERNMENT PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R. BASANT, J.

W.P.C.No. 748 of 2007 L

Dated this the 7th day of February, 2007

JUDGMENT

The petitioners are the brother and wife of late Ayyappan, who passed away under suspicious circumstances on the night of 1.9./2.9.2006. The said Ayyappan had gone out of the house on the evening of 1.9.2006. He did not return. Frantic efforts to trace him were made on the next morning. His body was found in a quarry filled with water on the next morning. The body was taken out. Inquest was conducted. Later postmortem examination was also conducted. The doctor opined that death was on account of “drowning and head injury”.

2. At the time of inquest, one Suresh Babu @ Mandal Kuttan, a nephew of the deceased, was also present. He is an attester to the inquest report along with the other attesters. He had endorsed an opinion that the deceased may have died when he slipped into the water in the quarry unnoticed by any one on the previous night. It was assumed to be a case of accidental death. Investigation was proceeding in that direction. It came to be known in the locality that

said Mandal Kuttan was present along with the deceased on that night at the quarry at about the time when the death could have taken place. The Sub Inspector, who is in charge of the investigation into the crime registered under the caption “unnatural death” under Section 174 Cr.P.C., appears to have questioned the said Kuttan also.

3. The said Kuttan came with a startling version that he was also present when the deceased had gone into the water in that quarry for some purpose. He had seen his uncle slipping and falling into the water. He had attempted to save him. He did not succeed. He had held out a pipe to save the deceased. He did not succeed. He thereafter walked back to his house. That is how the deceased got drowned. This version was not revealed by him to any official or others at the time of inquest or earlier or subsequently. Suspicion against the said Kuttan grew and complaints are made by the relatives and local people about the want of proper investigation into the crime. The petitioners pray that investigation may be entrusted in the hands of more competent and sincere investigators. They are totally dissatisfied with the quality of investigation conducted by the Sub Inspector.

4. Notice was given and the respondents have entered appearance. A statement has been filed by the Dy.S.P. after perusal of the records. I have heard the learned Prosecutor. I have perused the Case Diary. To say the least, I am shocked about the nature and quality of investigation conducted. There is absolutely no professionalism in the investigation conducted by the police officer. The relative, Kuttan, must have been intelligently and thoroughly interrogated to ascertain and his apparently unsatisfactory conduct of not trying to save his uncle at the time of the incident and of his conduct after his uncle got drowned. Why did he not reveal the information to any of the relatives? Why did he at the time of inquest keep the events a closely guarded secret? A perusal of the case diary shows that the said Kuttan has a version that he had revealed this information to another person and it was at his advice that he remained silent and did not reveal the information. There is a further explanation that the marriage of said Kuttan was being arranged and in view of that circumstance he felt it more prudent not to reveal this incident to any one else. Strangely, the person to whom that information was conveyed was not questioned to ascertain whether this version is correct and if so, what was

the precise version the said Kuttan gave to such person when he revealed the information.

5. To sum up, I am totally dissatisfied with the investigation. There is absolutely no meaningful, effective and efficient investigation. The petitioners, who are close relatives of the deceased, have a right to expect the Investigating Agency to ascertain the truth and make it known to the polity, including the close relatives. That duty was not performed. I am satisfied that there is merit in the prayer that the investigation must be conducted by more efficient and professionally dedicated hands.

6. This Writ Petition is accordingly allowed. Investigation into Crime No.228 of 2006 of Sreekrishnapuram police station shall be taken over by the Crime Branch C.I.D. Such investigation shall be conducted directly by a police officer not below the rank of a Deputy Superintendent of Police. Necessary orders to this effect shall be issued by the first respondent. A report shall be filed within a period of one month by the first respondent of the action taken in the matter under intimation to the petitioners' counsel.

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(R. BASANT)
Judge

